

REQUEST FOR INFORMATION
JOINT COMMITTEE ON BOARDS, COMMISSIONS
AND CONSUMER PROTECTION
SUNSET REVIEW

INSTRUCTIONS FOR COMPLETING THIS QUESTIONNAIRE

Business & Professions Code section 474, effective January 1 of 2004, requires the Joint Committee on Boards, Commissions and Consumer Protection ("JCBCCP") to engage in a "sunset" review of any regulatory or administrative board or commission that has members appointed by the Governor or the Legislature.

The JCBCCP will significantly rely upon the answers provided to the questions below in determining whether a board or commission should "sunset;" that is, cease to exist. The answers to the questionnaire shall constitute compliance with the reporting requirements of Business & Professions Code section 474.2. (At the end of this questionnaire are the statutes most applicable to this review.)

Please observe that the jurisdiction of the JCBCCP does not extend to executive branch departments per se. It may be that a board or commission is attached to or has a relationship with an executive branch department or program. In such cases, answering the questions below may require a description of the executive branch department or program. Nevertheless, please recall that answers that relate directly to the board or commission are most relevant.

For the sake of brevity, "board" or "commission" are collectively referred to herein as "entity."

Responses to this questionnaire are due no later than October 1, 2004. If no timely response is received, the JCBCCP may construe the lack of a response as an acknowledgement by the board or commission that sunset is appropriate.

Please preliminarily review this questionnaire when you receive it. As you will quickly see, some questions or entire sections may not be applicable to your entity. If any question or section is inapplicable, please so indicate, skip the question or section and/or feel free to add any explanation that you believe might be relevant.

All answers will be public record.

JCBCCP prefers that you provide your responses electronically. This will permit JCBCCP staff easily to incorporate your own words directly into their reports and analyses. A disc has been included with this questionnaire where you will find a "soft" copy of it. Please e-mail the completed questionnaire to Ed.Howard@sen.ca.gov by the October 1 deadline. Attachments may be sent by regular mail.

PRELIMINARY INFORMATION

NAME OF ENTITY (Board or Commission):

Address:

Phone:

Fax:

Email:

Primary contact person for this review and that person's e-mail address and phone number:

I. OVERVIEW OF OPERATIONS AND PROGRAMS

A. Purpose and Responsibilities

A1. When was the entity created and for what purpose?

- a) Was the entity created because of a specific problem or issue? Describe.
- b) Were there individuals, groups, or organizations, which requested the creation of this entity? Please list.
- c) Was there any opposition to the creation of the entity? Specify.

A2. What are the powers and duties of the entity? Cite legal authority for each.

- a) What are the entity's administrative or regulatory functions? If so, describe in detail.
- b) Have there been any major legal decisions to interpret the powers of the entity? If so, please list them, and include the opinion.
- c) What are the required qualifications for appointees to serve on the entity, in statute or otherwise?

A3. Has the entity's legal authority been changed substantially at any point in time?

- a) Has the law been significantly expanded or contracted?
- b) Please set out the relevant history of the statutes and/or other laws that govern your jurisdiction, powers, authority, and operations. Cite specific code sections, and provide the text of regulations.
- c) Cite specific bill numbers for both statutes, which were signed into law, and those, which were proposed but did not become effective.

A4. What is the mission and/or vision of the entity? What are its objectives?

- a) Has the entity developed a way to measure and report the achievement of these objectives?
- b) Has the entity conducted (either in-house, or using outside contractors) any type of basic self-assessment, reengineering study, or evaluation of the entity's overall goals or effectiveness? If so, please attach.
- c) Has any other entity conducted a study of this entity's goals or effectiveness? Who? If a study was completed, please attach.
- d) Is there anyone in government, academia or the private sector who can knowledgeably discuss the state of the entity and its accomplishments? If so, please list their name/names and contact information.

A5. To whom does the entity report?

- a) What bodies in state, federal or local government does it work with on a regular basis?
- b) Does the entity have any authority over a state, federal, or local government?

A6. What organization(s) or group(s) have an interest or stake in the operations of this entity, whether cooperative or generally taking positions in opposition to the entity's positions? Please provide as complete a list as possible of those who you regularly deal with or who regularly come before you, along with a description of what the nature of the stake is (regulatory, public safety-related, etc.) and contact information.

A7. What is the composition of the entity (i.e. size, structure)? Give some justification for the size of the entity and its composition, and whether an increase or decrease in entity size is necessary. Estimate how much time appointed members of the entity spend on activities related to the entity per week over the last year.

A8. Are there currently any vacancies for appointed members of the entity or its staff (full time or otherwise)? Is your staffing level adequate? If not, please explain.

A9. What has been the average time for gubernatorial or legislative appointments if vacancies existed? For current vacancies, how long have they been vacant? Are vacancies impeding the function of the entity? Please explain.

A10. What policies or specific provisions does the entity have concerning conflicts of interest? Please describe them, and attach any written policies or provisions.

A11. Are there stated grounds for removal of an appointed member from the entity? Please describe. Can members of the entity be removed by the Governor, the Legislature, other members, or any other person for inefficiency or lack of duty? If so, please specify.

A12. Does your staff require or receive any specialized training? If so, please explain the nature of the training, the reason for it, which staff levels and positions need the training, and describe how the training is generally conducted.

A13. If appointed members are not full-time employees, does the entity have an attendance policy for them? Does the entity require that a majority of members be present in order for any action to be taken? If the entity does have an attendance policy, please attach a copy of the policy. If not, why?

A14. Does the entity make use of committees? If so, what are they? Are the committees composed exclusively of appointed members? Explain in detail who serves on these committees.

A15. Does the entity conduct public meetings? If so, how often, and generally, what kinds of decisions are made at these meetings?

- a) Please provide the agendas and minutes of your meetings over the past year only. Attachments to the board agendas and minutes are not necessary.
- b) Is public participation encouraged at these meetings? If so, how? If not, why not?
- c) Are notices distributed to the public? If so, how?
- d) For what reasons are closed (or executive) sessions of the entity held, and what information is made available to the public after closed session is concluded?

A16. Does the entity belong to any national association and/or nationwide group of similar entities in other states? If so, name the organizations, the total cost of each membership (including travel costs to organization meetings and other incidental costs) in each of the past four years. Describe, in detail, the benefits of such membership.

A17. What reports have been made *by the entity* to state agencies, the Governor, or to the Legislature? (A list of reports will be sufficient.) Have there been reports in whole or in part *about* the entity (e.g., LAO, Little Hoover)? If so, please attach.

A18. What outreach is provided by the entity to consumers or the general public regarding the duties and responsibilities of the entity?

- a) Does the entity publish a consumer guide or brochure to educate the public, or to help them make informed decisions when seeking services from the entity? If so, please attach.
- b) If not, why not?

A19. If your entity has an advisory role, please describe in detail:

- a) Who you advise;
- b) What specific advisory role you have played over the last four years;
- c) Please describe each formal opinion you have provided over the last four years, its importance both to the public and to any parties with a particular interest in it; what evidence you examined on all sides of each issue, the procedure you used to conduct the examination (informal, formal, public hearings, review of existing literature, etc.); what conclusion you reached, and why; and explain

your understanding of why the entity you advised took the action (or non-action) it did in responding to your position on each issue.

A20. Does the entity have a role in determining how public money is collected or spent (e.g., collects license fees, oversees or administers distribution of grants or loans, etc.)? If so, describe that role in detail.

- a) What role, if any, does staff play?
- b) Do you have public meetings as part of your determination? What role does public participation/input play?
- c) Do you have the final say in such decisions, or are they subject to final review by someone else? Who?
- d) Are your decisions confirmed by someone, who, and how often in the last four years have they been altered or overturned?
- e) List all decisions about the collection or spending of public money your entity has made over the last two years. Please list amounts.
- f) Briefly explain each decision about the collection or spending of public money you have made over the last four years, its importance both to the public and to any parties with a particular interest in it; what evidence you examined on all sides of each issue, the procedure used to examine evidence (informal, formal, public hearings, review of existing documentation, etc.), what conclusion you reached, and why; and, if your entity's decision is not the final one, what final decision was made based on your recommendations.

A.21 Please describe in detail the entity's top ten accomplishments over the last four years. Please explain in detail how they benefited the public. Please do an informal "cost-benefit" analysis describing how the cost of each accomplishment was worth the benefit, including, if applicable, how it might have saved the State from greater, future expenditures.

B. Funding and Organization

B1. What are the entity's sources of revenue, and what have been its expenditures for the last four fiscal years? Provide adequate detail so that specific programs and operations can be examined; include actual operating budgets for the last two years; also include current and anticipated reserves that may exist, surplus revenues if applicable, reimbursements, or transfers.

B2. Does the entity have an internal revenue and expenditure tracking system or does it rely on a state agency or department, or some other outside assistance to manage and oversee creation and implementation of its budget? Explain how funding and expenditures are managed, monitored or audited.

B3. What is the entity's projected sources of revenue and expenditures for the next two fiscal years (2004-05 and 2005-06)?

B4. Are any requests for budget change proposals or fee increases anticipated and, if so, for what purpose?

B5. If the entity charges fees, provide a current fee schedule with statutory limits for each fee if applicable.

B6. Are there any plans for adopting performance-based budgeting, or any other form of baseline performance measures covering the entity's operations?

B7. Provide an organization chart of the entity (including committees and divisions if appropriate).

- a) Provide a detailed summary of position titles, authorized positions, and actual salary expenditures by job for past four years. (Prior budget documents may be used.)
- b) Also include proposed changes for staff and salary expenditures for the next two fiscal years (2004-05 and 2005-06).

B8. List all outside contracts the entity is party to, whether entered into through the state's ordinary competitive bidding process, or not. Include an explanation for why the matter was contracted out, and not performed by the entity itself.

- a) For any contracts not subject to the state's ordinary competitive bidding system, explain why the contract was not let out for bid, and why the contractor was chosen.

B9. List the amounts paid to outside vendors (including counsel), providing the name and the amounts paid for the last four years.

C. Continuing Need for the Entity

C1. Describe, in detail, the benefits your entity provides to the public.

C2. During the last four years, has your entity been subject to any public criticism, critical press reports, or been involved in any substantial public controversy, such as a lawsuit (whether justified or unjustified)?

- a) Please describe the nature of the criticism, controversy or litigation, the party or parties who were involved, and your position.
- b) If the controversy was resolved, explain how it was resolved.
- c) Was this resolution satisfactory to all parties? If not, what issues remain in controversy?

C3. Are there other public agencies/departments/other boards or commissions, federal, state or local, which have some of the same or similar duties, responsibilities or functions to those provided of the entity? If so, please name them and explain why your entity should not be combined with or sunsetted in lieu of the other.

C4. Are there any private organizations or businesses that have some of the same or similar duties, responsibilities or functions to those of the entity? If so, please name them and explain why your entity should not be combined with or sunsetted in lieu of the other.

C5. What other states currently perform a function substantially similar to the one your entity does? Please list those states, and the entities.

C6. Are there some states that have performed a function substantially similar to the one your entity does, but which no longer do? Please describe.

- a) Have any other states, in the last ten years, substantially reorganized an entity similar to yours? Please describe.
- b) Is there any evidence of public harm or public benefit in any of those states from elimination or reorganization of the entity?

C7. What segments of the public are affected by your entity's functions and estimate about how many there are?

C8. Is the entity's mission impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters? Explain.

- a) Would statutory changes be needed to improve any aspect of the current program? Explain.
- b) Have you or anyone else proposed such changes? If so, explain whether they were adopted, rejected, or are still pending.

C9. Are there any federal mandates, federal matching funds, or other local or financial considerations that require the state to continue the entity? If so, please describe and provide citations.

C10. Explain any efforts, which have been made by the entity, or by anyone else, to improve any aspect of your program, other than the legislative or regulatory changes discussed in the previous question. Are there any program or organizational changes that the entity is considering to improve its operations and increase the program's ability to operate more in the public interest?

C11. Explain why the entity, in your opinion, should not be sunsetted. Provide as much documentation as possible from sources outside the entity (academic or policy studies, newspaper or magazine articles, court decisions, etc.) that would support your position.

C12. Self-critique the entity. Describe five things that could be improved upon and explain, in detail, the barriers to improvement.

II. OVERVIEW OF LICENSING AND/OR PERMITTING AUTHORITY (IF APPLICABLE)

D. Licensing or Permitting Authority

D1. What role does the entity play in licensing or permitting?

D2. If your entity's role in licensing or permitting is more than advisory, please answer the relevant questions in the next sections as applicable:

a) Licensing or permitting *not* falling under the jurisdiction of the Department of Consumer Affairs, and/or

b) Licensing related to businesses and professions that *are* under the jurisdiction of the Department of Consumer Affairs.

E. Licensing or permitting *not* falling under the jurisdiction of the Department of Consumer Affairs (only if applicable)

E1. Describe the type(s) of license or permit your entity has jurisdiction to issue (e.g., motor vehicle operation, boating, environmental permits, firearms permits, hunting licenses, etc.)

E2. Who can obtain a license or permit?

a) May the general public do so, or are there limitations (e.g., particular kinds of professionals or businesses)?

b) If the general public cannot obtain a license or permit, please explain the limitations. Why do they exist?

E3. If the general public may apply for a license or permit, what requirements exist in order to obtain the license or permit? (E.g. education or training, mental competency, lack of criminal record, etc.) Explain the justification for any requirements that exist.

E4. Are the limitations or requirements set out in statute or regulation? Please describe the legal scheme and provide relevant citations.

E5. What process exists in order to issue the license or permit? Is the process set out in statute or regulation? Explain in detail.

E6. How long does it on average take to obtain a license or permit? Describe how the typical application is processed, from first contact to issuance, and the normal time frame.

E7. How many licenses or permits did you issue in each of the last four years? If you issue multiple types of licenses or permits, please break down your answers by type.

a) How many applications were made that were not granted?

b) For what reasons would you not grant a license or permit?

E8. How much does it cost an applicant to obtain a license or permit? Is this fee set out in statute or regulation? Please explain. If you issue multiple types of licenses or permits, please break this down by type.

E9. Does the fee cover the cost of processing each application? What is your average cost to process each application? Provide documentation.

E10. How do you determine whether a license or permit will be issued in each case? If the controlling legal authorities allows the entity discretion in making these determinations, explain in detail what process you use, and what criteria you rely on. Is your decision making process set out in statute or regulation? Explain in detail.

E11. What typically happens if you discover an applicant has made false statements on an application? Are applications signed under penalty of perjury?

E12. What happens if you deny the application? Is there an appeals process? Explain how it works.

E13. How many applications have you denied in each of the last four years? How many have been appealed? What have the results been in each appeal?

E14. Are applicants required to renew their license or permit periodically? If so, how often?

- a) What is the cost of renewal?
- b) Is renewal automatic upon application, or do you have an obligation to review applications for new or updated information?
- c) How many renewals have you accepted and how many renewals have you denied in each of the last four years?
- d) On what basis do you deny renewals?

E15. Do you have the authority to revoke or otherwise impair (suspension, probation, limitation, etc.) a license or permit once issued? On what basis? How many licenses or permits have you revoked in each of the last four years, broken out by reason?

E16. What recourse does a licensee or an individual with a permit subject to impairment or revocation have? Is the process set out in statute or regulation? Describe in detail.

E17. How many impairment or revocation orders have been challenged in each of the last four years? What has been the result in each case?

E18. Do you initiate investigations into license or permit impairment or revocations, or do you rely on others to investigate? Who do you rely on?

E19. What is the typical process by which you would impair or revoke a license or permit?

- a) How would you initially find out action against the license or permit may be necessary?
- b) Do any other entities have responsibility for enforcement (e.g., California Highway Patrol or other public safety related agency)? Who? Describe your relationship with them, including both legal and contractual requirements.
- c) How would an investigation proceed?
- d) How would a license holder be notified of an action?
- e) Who would make the decision to impair or revoke?
- f) How is that decision made?
- g) Is it governed by statute or regulation? Describe in detail.

E20. Do you have enforcement responsibility as against anyone operating without a valid license or permit? If so, explain in detail how this process would work. If not, how is enforcement against unlicensed or unpermitted activities done? Does some other entity have enforcement responsibility? Explain in detail.

E21. How many staff are devoted to licensing or permitting as a proportion of your entire staff? Do they receive special training? Explain.

E22. How many staff are devoted to enforcement as a proportion of your entire staff? Explain.

E23. Are licensees or those with permits required to have special training or education? If so, how do you determine adequacy?

- a) Are specified courses, schools or programs required? How do you determine what courses, schools or programs you will accept?
- b) Do you offer a test to determine whether an applicant is qualified?
- c) Who devises the test?
- d) How often is it reviewed?
- e) Please submit a copy of all courses or institutions whose courses you accept, or any tests you administer.

E24. If there is a training or education requirement, is it ongoing, or only required upon initial application? If it is ongoing, how do you monitor updating?

E25. Has the entity considered alternative requirements for licensure or permits?

E26. Describe the education/examination/experience requirements for an applicant who is already licensed or who has a permit issued by a similar entity in another state or another country.

E27. Are there license or permit requirements that are unique to California versus those required in other states or other countries?

E28. Is there a national/uniform model or act for permitting or licensure that is being considered or has been adopted by the entity? Has the entity considered and rejected a uniform or model act? Why?

E29. What information is required on the application for licensure/permit? (A copy of the application should be included.) What supporting documentation is required?

E30. What information does an applicant receive from the entity? (Copies of this information should be included.)

E31. Explain the application review process conducted by the entity and staff. (Include a flow chart if one is available.)

E32. Is the entity's application process automated?

E33. What process is used to verify the information provided by the applicant on the application form?

E34. What process is used to check out-of-state applicants?

- a) Is out-of-state licensee permitted to practice prior to his or her application being approved?
- b) Are changes needed in the process to provide for better interstate reciprocity of information?

E35. Does the entity recognize international reciprocity? If not, why not? Are there special requirements for international reciprocity?

E36. What are the deadlines for renewal of the license/permit?

E37. What is the process for reinstatement if a license/permit has expired and what is the time frame?

- a) Is there an "active" versus "inactive" status?

E38. What sort of access does the public have to application/licensing/permit information?

- a) Can the public obtain education and training information, employment and credentialing history?

E39. What is the average time between submission of an application and an applicant's exam, for each year over the past four years? What is the amount of time on average between application and approval over the same period?

E40. What is the average time period from the completion of the exam until applicant receives the results and is issued a license, for each year over the past four years? Describe a typical timeline, from original application to time of full practice rights and privileges.

E41. Provide the number of licensees/permits (active and inactive), numbers and types of issued and number of renewals for each year over the past four years.

E42. Provide the number of licensees/permits who have been grandfathered into the profession and who are currently in practice. (“Grandfathered” includes those who did not have to meet the current requirements when the law was first enacted.)

E43. Provide the number of applicants for licensure/permit, number approved and number denied for each year over the past four years. Give a brief description of the reasons they have been and were denied.

E44. Does the entity accredit any educational institutions or programs?

- a) What standards and processes are used for accreditation?
- b) Does the entity review private accreditation standards and processes to assure that they are not unreasonably restrictive or anti-competitive?

E45. If there is no continuing education requirement, should one be mandated and why?

E46. Is there any review conducted by the entity, or the private sector, to assure competency of the licensed/permitted individuals? (Such as peer assessments, quality reviews, or inspections of work product or performance record.)

- a) If so, explain this process, how they are chosen for review, how often a review is conducted, and how many have been reviewed each year over the past four years.
- b) Is remedial continuing education mandated for those found to be negligent or lacking in competence?
- c) Can the entity compel the taking of some other form of education or remedial action to assure competency?
- d) Must disciplinary action be taken against before remedial education can be required?

E47. Are there any written standards or guidelines concerning the examination process? (Please attach.) If not, why not?

E48. How many different examinations does the entity administer? Name them. For each such exam, answer the following questions:

- a) How is the licensing exam validated and how often? When was the exam last validated?
- b) How often is the exam administered?
- c) Where is the exam given; at what sites?

- d) Who prepares or writes the examination? Is it a related trade organization, independent organization or contractor?
- e) What skills or knowledge does the exam test and how are they related to the practice of the profession?
- f) What is done to ensure exam security by properly identifying candidates and preventing cheating?
- g) How many parts are there to the exam? Describe each part (e.g., written, oral, clinical, practical).
- h) If candidates fail parts of the exam, must they retake the entire exam or only those parts they failed?
- i) How frequently may the exam be taken?
- j) Who grades the exam?
- k) Who determines the standard for passing the exam?
- l) Who notifies candidates of the results?
- m) Is the examination any different for licensed out-of-state candidates or those from other countries?
- n) If the entity requires an applicant to pass the state exam in addition to a similar national exam, justify the state exam by describing precisely what knowledge, skills, and abilities the state exam covers that the national exam does not.
- o) Is the examination any different for licensed out-of-state and foreign candidates?
- p) What would be the result if the exam were eliminated as a prerequisite for licensure?
- q) Could matriculation from an approved educational institution suffice, and if not, why not?
- r) Should the exam function be centralized under the Department of Consumer Affairs or another state agency or department, or is the entity already using a department's examination resources, e.g., the Office of Examination Resources?

E49. Provide the passage rate, for each of the past four years, for first-time candidates and repeat candidates for each exam. How does this compare with the rest of the nation for each exam administered by the entity? Include the number of examinees in each category. (Tables can be used.)

F. Licensing or permitting falling under the jurisdiction of the Department of Consumer Affairs (complete only if applicable)¹

F1. If the entity has the discretion and authority to grant licenses or permits to individuals in businesses or professions, please answer the following:

F2. What are the educational requirements for licensure?

F3. Besides educational and examination requirements, what other requirements are necessary for licensure (e.g., experience requirements)?

¹ Please do not answer these questions unless the board or commission falls under the jurisdiction of the Department of Consumer Affairs. This one section – “F”-- is drafted exclusively for those entities. If inapplicable, resume with section “G.”

- F4. If qualifying experience is required, must it be gained under the supervision of a current licensee?
- F5. Are licensure applicants who are working under the supervision of a licensee and gaining qualifying experience paid for their hours of work?
- F6. Does the entity permit licensees, who are supervising applicants for licensure, to charge those applicants for supervision?
- F7. If an applicant must be supervised in some way, must the supervisors be registered with the board as supervisors? If so, what are the qualifications to be registered as a supervisor?
- F8. Has the entity considered alternative requirements for licensure?
- F9. Describe the education/examination/experience requirements for an applicant who is already licensed by a similar entity in another state.
- F10. Describe the education/examination/experience requirements for an applicant who is already licensed by a similar entity in another country.
- F11. Are there requirements that are unique to California licensees versus those required in other states or other countries?
- F12. Is there a national/uniform model or act for licensure that is being considered or has been adopted by the entity? Has the entity considered and rejected a uniform or model act? Why? Has the entity considered adopting or using standardized, uniform language to describe the licensing and regulatory functions of the entity?
- F13. What information is required on the application for licensure? (A copy of the application should be included.) What supporting documentation is required?
- F14. What information does an applicant for licensure receive from the entity? (Copies of this information should be included.)
- F15. Explain the application review process conducted by the entity and staff. (Include a flow chart if one is available.)
- F16. Is the entity's application process automated?
- F17. What process is used to verify the information provided by the applicant on the application form?
- F18. Are applicants required to report their own misconduct to the entity (e.g., professional negligence/malpractice judgments and settlements, criminal charges and convictions, discipline in other states, etc.)?

- a) What process is used to verify self-reported information?
- b) What process is used to check prior criminal history information or other unlawful acts of applicant?
- c) What process is used to determine whether prior acts have been committed that would be grounds for suspension or revocation of license, and grounds for denial of a license?
- d) [Health Related Entities Only] Does the entity check with the National Practitioner Data Bank prior to granting a license to practice in this state? Is the information current and relevant regarding malpractice judgments or settlements, and disciplinary actions taken in other states?

F19. What action may the entity take if the licensee has made false statements on the application?

F20. What process is used to check out-of-state applicants?

- c) Is out-of-state licensee permitted to practice prior to his or her application for license being approved?
- d) Are changes needed in the licensing process to provide for better interstate reciprocity of information?
- e) Does the entity recognize international reciprocity? If not, why not? Are there special requirements for international reciprocity?

F21. Has the entity developed criteria to evaluate the rehabilitation of a person applying for a license after denial or revocation of a license?

F22. Are there other grounds for denial of a license other than those listed in any state code or regulation?

F23. How often is license renewal required?

F24. What information must the applicant submit for renewal of his/her license? (A copy of this information should be included.)

F25. What does the entity and staff review to determine applicant's qualifications for renewal of licensure?

F26. What are the deadlines for renewal of the license?

F27. What is the process for reinstatement if a license has expired and what is the time frame?

- a) Is there an "active" versus "inactive" status for licensees?

F28. What sort of access does the public have to application/licensing information?

a) Can the public obtain education and training information, employment and credentialing history?

F29. What is the average time between submission of an application and an applicant's exam, for each year over the past four years?

F30. What is the average time period from the completion of the exam until applicant receives the results and is issued a license, for each year over the past four years? Describe a typical timeline, from original application to time of full practice rights and privileges.

F31. Provide the number of licensees (active and inactive), numbers and types of licenses issued and number of renewals for each year over the past four years.

F32. Provide the number of licensees who have been grandfathered into the profession and who are currently in practice. ("Grandfathered" licensees include those who did not have to meet the current licensure requirements when the licensure law was first enacted.)

F33. Provide the number of applicants for licensure, number licensed and number denied for each year over the past four years. Give a brief description of the reasons licenses have been denied. Also provide the number of "potential" licensees if possible -- those who have met the educational requirements (graduated from an approved school, etc.) but still have to meet other requirements before they may apply for licensure.

F34. [For Health Related Entities Only] Is the entity involved in any health work force data collection efforts to determine where shortages or a surplus of providers may exist throughout the state?

a) What type of data is collected and when? If current data is available from the entity or other sources, please attach.

F35. Does the entity accredit any educational institutions or programs?

c) What standards and processes are used for accreditation?

d) Does the entity review private accreditation standards and processes to assure that they are not unreasonably restrictive or anti-competitive?

F36. Does the entity have a continuing education requirement for renewal of the license?

a) If so, describe the continuing education requirement in detail.

b) Explain why continuing education is necessary.

c) Are there definitions or written policies about what continuing education is acceptable or not acceptable for licensees?

d) What is the number of continuing education hours required to be taken by licensee? What is the average cost per hour?

e) Are some courses/programs mandated? For what purpose?

- f) What is a licensee required to submit to the entity to show completion of continuing education requirement? How is verification made?
- g) Who are the primary providers of continuing education courses?
- h) Provide the number of current providers of continuing education, the number of approved courses/programs they provide, the number of sponsors/courses/programs rejected and reasons why.
- i) Does the entity require continuing education providers to administer a test at the end of the continuing education course?
- j) Explain the process for approval of continuing education courses or programs and the time frame for approval.
- k) What evidence does the entity have that completion of continuing education requirements improves competency?
- l) How many staff positions does the entity devote to its continuing education program?

F37. Are there other alternatives the entity is considering to continuing education to ensure that professional competence is maintained, such as “re-testing” or “re-certification”?

F38. Should the administration of all continuing education requirements be centralized within the Department of Consumer Affairs or another state agency or department? If not, why not?

F39. If there is no continuing education requirement, should one be mandated and why?

F40. Is there any review conducted by the entity, or the private sector, to assure competency of the licensed individuals? (Such as peer assessments, quality reviews, or inspections of licensees' work product or performance record.)

- e) If so, explain this process, how licensees are chosen for review, how often a review is conducted, and how many licensees have been reviewed each year over the past four years.
- f) Is remedial continuing education mandated for a licensee found to be negligent or lacking in professional competence?
- g) Can the entity compel licensees to take some other form of education or remedial action to assure competency?
- h) Must disciplinary action be taken against the licensee before remedial education can be required?

F41. Are there any written standards or guidelines concerning the examination process? (Please attach.) If not, why not?

F42. How many different examinations does the entity administer? Name them. For each such exam, answer the following questions:

- s) How is the licensing exam validated and how often? When was the exam last validated?
- t) How often is the exam administered?
- u) Where is the exam given; at what sites?

- v) Who prepares or writes the examination? Is it a related trade organization, independent organization or contractor?
- w) What skills or knowledge does the exam test and how are they related to the practice of the profession?
- x) What is done to ensure exam security by properly identifying candidates and preventing cheating?
- y) How many parts are there to the exam? Describe each part (e.g., written, oral, clinical, practical).
- z) If candidates fail parts of the exam, must they retake the entire exam or only those parts they failed?
- aa) How frequently may the exam be taken?
- bb) Who grades the exam?
- cc) Who determines the standard for passing the exam?
- dd) Who notifies candidates of the results?
- ee) Is the examination any different for licensed out-of-state candidates or those from other countries?
- ff) If the entity requires an applicant to pass the state exam in addition to a similar national exam, justify the state exam by describing precisely what knowledge, skills, and abilities the state exam covers that the national exam does not.
- gg) Is the examination any different for licensed out-of-state and foreign candidates?
- hh) What would be the result if the exam were eliminated as a prerequisite for licensure?
- ii) Could matriculation from an approved educational institution suffice, and if not, why not?
- jj) Should the exam function be centralized under the Department of Consumer Affairs or another state agency or department, or is the entity already using a department's examination resources, e.g., the Office of Examination Resources?

F43. Provide the passage rate, for each of the past four years, for first-time candidates and repeat candidates for each exam. How does this compare with the rest of the nation for each exam administered by the entity? Include the number of examinees in each category. (Tables can be used.)

G. Complaints Against Those With Permits or Licenses

- G1. Who may file a complaint against those with a permit or a license?
- G2. Is there a single point of access, such as an 800 number, for the public to file complaints?
- G3. In what form must a complaint be submitted?
- G4. Is complaint intake automated?
- G5. How is the public kept apprised of the progress of a complaint once filed?
 - a) When and how often is the complainant informed about the progress of the complaint?

- b) Are they notified when they may be contacted for purposes of investigation?
- c) Are they notified about the process and their involvement in the proceedings?

G6. What sort of enforcement tracking is used by the entity?

G7. What are the time frames for handling a complaint -- from the time of receipt, to assignment, to acknowledgment a complaint has received, to investigation and resolution?

- a) What formal or informal processes (such as telephone calls) are used to handle complaints?
- b) What action may the entity take without filing a formal complaint?

G8. What information must a complainant provide? (A form may be included.)

G9. How does the staff check for the accuracy of the information provided?

G10. What information does a complainant usually request? For what reasons would a complaint be dismissed?

G11. Provide, by type, the total number of complaints dismissed each year for the past four years.

G12. Provide, by type, the total number of complaints handled informally each year for the past four years. Include a definition of "informally," such as, "without an investigation."

G13. Provide, by type, the total number of complaints handled formally each year for the past four years. Include a definition of "formally."

G14. Describe the ways in which the entity monitors the number and subject matter of complaints received, for purposes of adoption of regulations to cure prevalent abuses within the licensed community.

H. Violations of Permit or License Requirements

H1. Is the scope of the permit or license clearly defined to determine legal versus illegal conduct? (Cite statutes and/or include regulations.)

H2. What actions may the entity take against those who violate the permit/license requirement?

H3. Has the entity implemented "cite and fine" authority under any state code or regulation? If not, why not?

H4. How long has the entity had the power to issue fines and citations?

- a) What are the fine schedules?
- b) Are the fines capped (so that multiple violations cannot exceed a dollar threshold)?

H5. What efforts has the entity made to investigate those who violate the license/permit requirements?

- a) Provide the number of cease and desist orders, letters, or warnings issued or sent by the entity for each of the last four years. Also include the types of activity involved.
- b) Provide the number of infractions, penalties and administrative citations issued by the entity for each of the last four years. Also include the types of activity involved.
- c) Provide the total number of cases for referred to the courts for action for each of the last four years.

I. Investigations

I1. Explain briefly the investigative processes of the entity, from the handling of an initial complaint to the filing of an accusation or other formal action. Indicate who is involved in each stage of the process and the approximate time frame for completing each stage for each type of investigation.

I2. Does the entity perform inspections and/or audits?

- a) If so, briefly explain the process, who is involved and the time frame for completion.
- b) What prompts an inspection and/or audit?

I3. Are cases divided into distinct areas for handling? (For example, administrative violations, criminal violations, competency issues, minor or major cases, unlicensed activity.)

- a) Are cases prioritized? Explain the entity's priority system.

I4. Does the entity try to target high-profile cases for publicity in order to educate those subject to license/permit requirements and consumers about specific problem practices?

I5. Does the entity employ sworn investigative staff?

- a) If not, does the entity refer cases outside the entity itself (i.e., to the Department of Consumer Affairs Division of Investigation) or does the entity permit non-sworn employees to investigate cases?
- b) Does the entity believe that it would be better for its staff to conduct all investigative activities or to use (or continue using) an outside agency such as the Division of Investigation? Explain briefly.
- c) If the entity refers cases to a state agency for investigation, does the board ever place an hours-per-case limit on the investigation? Under what circumstances? What is the limit and how is it set?

I6. Provide the total number of investigations (by type) commenced and completed for each year over the past four years, and the number of investigations currently open/pending.

a) Provide approximate cost of investigation by type of case.

I7. Provide, by type, the number of inspections and/or audits completed each year over the past four years.

a) What are the number of inspections and/or audits planned for 2004-05?

I8. Provide the number of cases in which the investigation was completed within 90 days of complaint receipt for each year over the past four years.

a) Provide the same information for periods within 180 days, one year, two years, three years. Give reasons for extreme delays, if any.

I9. How often does the state attorney general request an additional investigation before filing an accusation or statement of issues? What is the approximate time frame if further investigation is required?

J. Disciplinary Action

J1. Explain briefly the disciplinary process of the entity, from completion of an investigation, to filing of the accusation/statement of issues or similar formal document, to subsequent action by the entity.

a) Indicate who is involved in each stage of the process and the approximate time frame for completing each stage.

J2. Is there any alternative process used by the entity or is one being considered? This could include, for instance, dispute resolution, mediation or arbitration. Explain briefly.

a) What type of cases would be referred to this alternative process?

b) Does the entity track the effectiveness of this alternative process?

J3. Provide the total number of citations issued for order of abatement and order to pay an administrative fine for each year over the past four years.

a) Show the amounts assessed by the entity and the amounts collected.

b) What further action was taken if an amount went uncollected?

J4. What are the general grounds for impairment or revocation of a license? Cite code section(s).

J5. Are the grounds defined in statute or in regulations? Please provide citations.

J6. Does the entity have a procedure for automatically impairing or revoking licenses? Under what circumstances would it be used?

J7. What conditions may be placed on a licensee if granted probation in court action?

- a) How does the entity monitor those who are granted probation?
- b) What action may be taken by the entity for violation of probation conditions?

J8. Under what circumstances does the entity conduct administrative hearings in conjunction with administrative law judges (ALJs)? Are there circumstances when it conducts hearings without ALJs? (If so, please answer the following questions about ALJs, but, in your answers, substitute the other decision maker, such as a hearing officer or a sub-committee of the board or commission itself.)

J9. Has the entity adopted criteria or standards for circumstances under which it should or should not reject an ALJ's proposed decision?

- a) Have standards been developed to link disciplinary actions to the severity of the complaint or violation?

J10. Has the entity adopted disciplinary guidelines that set forth the entity's penalty standards? (Include a copy.)

- a) How frequently are they updated?
- b) When and how have the disciplinary guidelines been communicated to the Attorney General's Office or other counsel used for disciplinary action?

J11. What entities are required to report information to the entity that may indicate a need for disciplinary action? Has the entity experienced any problems getting information from these entities?

- a) [Health Related Entities Only] Are there any reporting requirements for health plans or health care facilities? Explain what type of information is reported to the entity (such as peer review or disciplinary action taken against a practitioner).
- b) Are licensees required to report to the entity about unprofessional conduct or other violations by other licensees in the trade/profession?

J12. Is the entity permitted to issue interim orders suspending or imposing restrictions on licenses? Under what circumstances would the entity seek this relief?

J13. Does the entity have authority to file with the court for injunctive relief, for temporary restraining orders, for cease and desist orders, or other types of order to enjoin the acts or practices of persons who are in violation of any of the provisions of the licensing act, including unlicensed activity? Under what circumstances would the entity seek this relief?

J14. Is disciplinary information disclosed to the public?

- a) If so, at what point in the process is it made available? (For example, once a complaint is filed, after an accusation is filed or after case is decided.)

- b) What information would be disclosed? (For example, prior disciplinary action, malpractice judgments or settlements, peer review findings, misdemeanor/felony convictions, loss of professional privileges, etc.)

J15. Does the entity have authority to proceed with disciplinary action while awaiting court action? Under what circumstances would this be done?

J16. Provide information on how often an accusation or statement of issues is not filed while awaiting court action.

J17. Are there additional penalties or sanctions, which the entity would consider imposing?

J18. Is any form of restitution provided to wronged consumers or to the public?

- a) If so, under what circumstances?
- b) Has the board adopted rules or guidelines specifying these circumstances? If so, please attach.

J19. If the entity has no restitution policy, is there some form of restitution the entity would consider appropriate?

J20. Provide, by violation type, the total number of accusations filed, number withdrawn or dismissed, and final decisions reached for each year over the past four years. Also include those cases which were referred for criminal or civil action.

J21. Provide, for each year over the past four years, the number of cases in which:

- a) the entity non-adopted the decision of the ALJ,
- b) the ALJ's recommended penalty was increased or decreased,
- c) reconsideration was granted or denied,
- d) judicial review was employed,
- e) the entity's decision was overturned or stayed,
- f) the penalty was reduced or reinstatement was granted.

J22. Provide the total number of statements of issues filed by violation type, number withdrawn or dismissed, and number of licenses denied or granted for each year over the past four years.

J23. Provide the total number of interim orders (if applicable) sought and issued by type for each year over the past four years.

J24. Provide the total number of temporary restraining orders, cease and desist orders, or other type of orders sought and issued by type for each year over the past four years.

J25. For each licensee in which an accusation or statement of issues was filed and a decision reached, provide the disciplinary action taken, brief reason for the decision, and entity's subsequent action for each year over the past four years.

J26. What is the generally accepted core amount of knowledge, skill and ability individuals with licenses/permits must have to practice in this occupation?

- a) What methods are currently used to define the requisite knowledge, skill and ability?
- b) Who is responsible for defining this knowledge, skill and ability?
- c) Is all the requisite knowledge, skill and ability tested?

J27. Is there a consensus on what activities constitute competence to obtain a license or permit?

- a) If so, state and document. If not, what is the basis for assessing competence?
- b) Are the indicators of competent practice measurable by objective, written standards?
- c) Are all standards job related?
- d) How do these standards compare with those required by other states?
If differences exist, please explain.
- e) How are determinations made concerning the use of new procedures or practices, and whether or not they should be included as a core competency/qualification?

J28. [For Health Related Entities Only] Does the entity review standardized practice guidelines or protocols used in health care facilities?

J29. Are there other ways which knowledge, skills and abilities obtained by individuals with licenses or permits: apprenticeships, internships, on-the-job training, individual study, etc.?

- a) Describe the program or study involved, number of years required, and whether it is a prerequisite to licensure.

J30. Do consumers use services provided by each those with licenses/permits on a repeat basis or only infrequently?

J31. Who is the primary consumer of their services (the general public, businesses, state and local agencies, etc.), and what percentage of each uses these services?

- a) Is the consumer generally more sophisticated than the average member of the public in requesting these services?

J33. Can the competence or performance of those with licenses or permits be readily evaluated by the consumer?

- a) If not, why not?

J34. To what extent do individuals regulated by the entity (e.g., license or permit) make professional judgments with potentially major financial, health, safety or other significant consequences for the public?

- a) What are these judgments?
- b) How frequently do they occur?
- c) What are the consequences? Document.

J35. To what extent do individuals regulated by the entity work independently, as opposed to working under the auspices of an organization, an employer, a supervisor, or under the supervision of another practitioner?

- a) If supervised, is the supervisor covered by regulatory statute?

J36. To what extent do decisions made by the individuals regulated by the entity require a high degree of skill or knowledge to avoid harm?

K. Disciplinary Case Aging Data

K1. Provide the total number of pre-accusation/statements of issues assigned to the Attorney General or counsel used in lieu of the AG. Divide cases into the following categories: 0-91 days, 92-182 days, 183-274 days, 275-365 days, 1-2 years, 2-3 years, over 3 years.

K2. Provide the same information for post-accusation/statements of issues in the above categories

K3. Provide a summary of caseload for each year for the past four years in the following categories: Cases Received, Cases Completed, Open/Pending Cases. Carry over from each year.

K4. Provide a summary of aging cases for each year for the past four years in the following categories: Cases Closed within One Year, Cases Closed within Two Years; Cases Closed within Three Years, Cases Closed within Four Years, Cases over Four years old. Provide a brief explanation of cases over two years old.

K5. What is the average period of time for a case to be handled, from the time a complaint is filed to final disposition of the case?

K6. What can be done to speed up the disciplinary process?

- a) What efforts has the entity made to speed up the process?

L. Enforcement Costs

L1. How does the entity track cases for purposes of controlling enforcement costs?

L2. Provide the total cost of investigation, prosecution (with the use of the attorney general's Office or outside counsel), use of expert witnesses, administrative hearings (with use of the Office of Administrative Hearings and court reporters), and other costs for each year over the past four years.

a) Provide the percentage of enforcement costs as a share of the entity's total budget for each of those years.

L3. If experts are used please briefly explain why expert witnesses are used and how they are chosen.

L4. Has the entity adopted formal criteria for the designation and evaluation of experts in its proceedings?

L5. Provide the hourly rate the entity has paid to the Attorney General's Office or other counsel for each year over the past four years.

L6. Provide the number of cases, by type, referred to the Attorney General's Office for each year over the past four years, the total cost of those cases and the average cost per case.

L7. Does the entity have cost recovery authority?

- a) Has the entity implemented this authority? When?
- b) How much has the entity requested in cost recovery during the past four years on a yearly basis?
- c) How much has the entity received in cost recovery during the past four years on a yearly basis?
- d) What percentage of enforcement costs is recouped through the cost recovery process?

M. Other Litigation Issues

M1. List and provide a brief description of:

- a) the issues raised in all civil lawsuits (excluding judicial appeals of agency disciplinary decisions) to which the entity has been a party during the past four years,
- b) the outcome of those cases, or the status of all pending cases; and
- c) the cost of each case to the entity.

N. Diversion Program

N1. Does the entity operate a diversion program for those with permits or licenses who abuse drugs or alcohol? Under what statutory authority? Describe the program and its requirements in detail.

- a) Is the entity's diversion program administered by the entity itself (in-house) or is it contracted out to another organization? If the latter, identify that organization and the academic credentials/degrees and occupational licenses possessed by the organization's employees who work with diversion program participants.
- b) What is the goal of the program?
- c) Identify the costs of the program over the past four years on a yearly basis; distinguish between costs, which are paid by the individual participant, and costs, which are borne by the entity and its licensees.
- d) How are individuals referred to the diversion program?
- e) Once referred to and accepted into the program, is his/her license/permit suspended until it is determined that he/she can practice safely?
- f) How many licensees/those with permits have participated in the diversion program in each of the past four years?
- g) How many licensees/those with permits have successfully "graduated" from the program in each of the past four years? What are the criteria for graduation?
- h) How does the entity communicate the existence of the diversion program?
- i) Is the entity's enforcement program aware of the identity of diversion program participants, so that it may take appropriate action if subsequent complaints are received about those who have "graduated" from a diversion program?
- j) How many of those who "graduated" from the diversion program have had a similar, subsequent disciplinary violation over the past four years?

III. SPECIFIC QUESTIONS ABOUT THE ENTITY'S PROGRAMS

O. Potential for Harm to the Public

O1. Does the entity have programs that protect or advance the public's health, safety, or welfare? For example, are individuals under the administrative or regulatory authority of the entity engaged in activities or practices, which could cause public harm? Document any physical, social, financial or other consequences to the consumer, which could result if the entity would case to exist.

- a) How severe would these consequences be?
- b) Is there one segment of the public that is more at risk than others?
- c) How likely is it that any harm would occur?

O2. If there are different licensing/permit categories, classifications or occupational titles, which are regulated, provide justification, in terms of avoiding harm, for each.

- a) Explain why practice versus title protection is necessary, or if title protection is sufficient.

P. Evidence from Current Program that the Program and Entity are Necessary

P1. What evidence can be seen or inferred from the entity's current program(s) that demonstrate why the entity is necessary?

P2. Document cases or instances of where the public's health, safety, or welfare has been endangered or where consumer injury has occurred that justify the entity's existence.

Q. Public Demand for Regulation/Administration/Programs.

Q1. What groups, organizations or other entities originally requested regulation/administration/programs created or implemented by the entity? Are there any, which were opposed?

Q2. Is there any evidence that the public demands the program/current level of regulation/administration? Be specific, and provide documentation.

R. Federal Mandates or Other Legal Considerations.

R1. Are there federal mandates or other legal considerations that require the entity or any of its programs to endure?

End of questionnaire. Thank you for your cooperation.

APPENDIX – APPLICABLE BUSINESS & PROFESSIONS CODE STATUTES

474 The Joint Committee on Boards, Commissions, and Consumer Protection established pursuant to Section 473 shall review all state boards as defined in Section 9148.2 of the Government Code, other than boards subject to review pursuant to Chapter 1 (commencing with Section 473), every four years or over another time period as determined by the committee.

474.1. Prior to recommending the termination, continuation, or reestablishment of any board or any of the state board's functions, the Joint Committee on Boards, Commissions, and Consumer Protection shall hold public hearings to receive testimony from the board involved and the public. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board.

474.2. All state boards to which this chapter applies shall prepare an analysis and submit a report to the Joint Committee on Boards, Commissions, and Consumer Protection not later than 22 months before that state board is scheduled to be reviewed by the committee. The analysis and

report shall include, at a minimum, all of the following: (a) A comprehensive statement of the state board's mission, goals, objectives, and legal jurisdiction in protecting the health, safety, and welfare of the public. (b) The board's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component. (c) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate. (d) A complete cost-benefit analysis of the board's operation for each of the four years preceding the date of the report or over a time period specified by the committee.

474.3. (a) The Joint Committee on Boards, Commissions, and Consumer Protection shall evaluate and determine whether a state board as defined in Section 9148.2 of the Government Code, other than a board, subject to review pursuant to Chapter 1 (commencing with Section 473), has demonstrated a public need for its continued existence based on, but not limited to, the following factors and minimum standards of performance:

- (1) Whether the board is necessary to protect the public health, safety, and welfare.
- (2) Whether the basis or facts that necessitated the initial creation of the state board have changed.
- (3) If the state board is necessary, whether existing statutes and regulations establish the most effective regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.
- (4) Whether the state board operates and enforces its responsibilities in the public interest and whether its mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters.
- (5) Whether an analysis of the state board indicates that it performs its statutory duties efficiently and effectively.
- (6) Whether the composition of the state board adequately represents the public interest and whether it encourages public participation in its decisions rather than participation only by the entities it regulates or advises.
- (7) Whether the state board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.
- (8) Whether administrative and statutory changes are necessary to improve the state board operations to enhance the public interest.

(b) The Joint Committee on Boards, Commissions, and Consumer Protection shall consider the appropriateness of eliminating and consolidating responsibilities between state boards.

(c) Nothing in this section precludes any state board or, if requested by the Joint Committee on Boards, Commissions, and Consumer Protection, the Legislative Analyst's Office, from submitting other appropriate information to the Joint Committee on Boards, Commissions, and Consumer Protection.

474.4. The Joint Committee on Boards, Commissions, and Consumer Protection shall meet to vote on final recommendations. A final report shall be completed by the committee and made

available to the public and the Legislature. The report shall include final recommendations of the committee and whether each board or function shall be terminated, or continued, and whether its functions should be revised or consolidated with those of other state boards. If the committee deems it advisable, the report may include proposed bills to carry out its recommendations.